

AMENDED IN SENATE APRIL 25, 2006

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1354

Introduced by Senator Dunn
(Coauthors: Senators Bowen and Romero)

February 17, 2006

An act to add Article 3.5 (commencing with Section 85350) to Chapter 5 of Title 9 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 1354, as amended, Dunn. Political Reform Act of 1974: corporate contributions.

Existing provisions of the Political Reform Act of 1974, which is administered by the Fair Political Practices Commission, require certain entities, including corporate entities, that make political contributions and expenditures to file specified reports concerning those contributions and expenditures. Other provisions of the act bar or limit certain gifts, contributions, and expenditures for candidates, elected officials, and campaigns.

This bill would require a corporation, as defined, that directly or indirectly makes or causes to be made political contributions or expenditures supporting or opposing California candidates, political parties, and political causes to report those contributions or expenditures to shareholders by specified means, and to refund to objecting shareholders or to charity a pro rata share of those contributions or expenditures, based on the shareholders' proportionate ownership interests. It would require corporations to maintain records that include copies of the reports on these political

contributions or expenditures for ~~five~~ 5 years, and make them available to the commission on request.

The act provides for civil and criminal sanctions for violations of its provisions.

This bill would separately provide for specified civil and criminal sanctions for violations of the bill.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act by a statute that becomes effective only when approved by the voters.

This bill would require the Secretary of State to submit those provisions of the act that amend the Political Reform Act of 1974 to the voters for approval at the June 3, 2008, statewide primary election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The people of the State of California find and
2 declare all of the following:

3 (a) Corporations make significant political contributions and
4 expenditures to support and oppose California candidates,
5 political parties, and political causes. ~~Decisions—However,~~
6 ~~decisions~~ to use corporate funds for political contributions and
7 expenditures are usually made by corporate boards and
8 executives, rather than shareholders, who own the corporation.

9 (b) Shareholders have a right to know how corporations are
10 spending shareholder funds to make political contributions or
11 expenditures supporting or opposing California candidates,
12 political parties, and political causes.

13 (c) Most shareholders do not have a way to know, influence,
14 or to object to the political activities of corporations they own.
15 Most shareholders have no means to demand reimbursement or
16 alternate use of their funds in lieu of those funds being used for
17 political candidates, parties, and causes to which they are
18 opposed.

19 (d) Individual union members have long had the right to object
20 to the contribution or expenditure of their union dues for political
21 purposes and to opt out of that contribution or expenditure.
22 Corporate shareholders should have the same opt-out rights as
23 union members.

1 SEC. 2. Article 3.5 (commencing with Section 85350) is
2 added to Chapter 5 of Title 9 of the Government Code, to read:

3
4 Article 3.5. Corporate Political Contributions and
5 Expenditures
6

7 85350. As used in this article, the following terms have the
8 following meanings:

9 (a) “Ballot measure” means any amendment to the state
10 constitution or other proposition that is submitted to a popular
11 vote at an election by action of a legislative body, or that is
12 submitted or is intended to be submitted to a popular vote at an
13 election by initiative, referendum, or recall procedure whether or
14 not it qualifies for the ballot. Ballot measure does not include any
15 proposition, initiative, referendum, or recall procedure or any
16 other measure that would amend, enact, or repeal federal law.

17 (b) “Corporation” means any of the following:

18 (1) Any publicly held corporation with shareholders.

19 (2) Any entity in which a corporation with shareholders has an
20 equity interest.

21 (3) In the case of a subsidiary or affiliate of a corporation or
22 entity described in paragraph (1) or (2), the ultimate parent entity
23 of that subsidiary or affiliate.

24 (c) “Political activities” means contributions or expenditures
25 made to, or in support of or opposition to, any candidate, political
26 party, committee, voter registration campaign, ballot measure
27 campaign, issue advocacy campaign, or any other political or
28 legislative cause in the State of California. This section shall not
29 apply to contributions or expenditures made to candidates for
30 federal office.

31 (d) “Public corporation” means any corporation that files
32 reports pursuant to Section 13(a) or 15(d) of the Securities
33 Exchange Act of 1934, as amended.

34 (e) “Ultimate parent entity” shall have the meaning set forth in
35 16 C.F.R. 801.1(a)(3), or any successor rule or regulation that
36 may exist from time to time.

37 (f) “Objecting shareholder” means any shareholder who
38 informs the corporation that he or she does not wish the
39 proportional share of the value of his or her equity in the

1 corporation to be contributed, expended, or in any way used for
2 political activities.

3 85351. A corporation may only make or cause to be made,
4 directly or indirectly, political contributions or expenditures for
5 political activities if it does all of the following:

6 (a) Within 30 days of the close of a corporation's fiscal year,
7 the corporation shall prepare a report entitled "Political
8 Contributions and Expenditures in California" detailing the
9 contributions or expenditures made to support political activities
10 during the just completed fiscal year and provide a written copy
11 of this report to its shareholders. A public corporation shall be
12 deemed to have complied with this section by including the
13 report in its annual report to shareholders under a caption entitled
14 "Political Contributions and Expenditures in California." In
15 addition, any corporation that maintains a Web site shall disclose
16 on that Web site the report to its shareholders. A report made
17 pursuant to this section shall include all of the following:

18 (1) The date of each contribution or expenditure.

19 (2) The amount of each contribution or expenditure.

20 (3) The name of the candidate, political party, committee,
21 person, issue, or legislative cause to which the contribution or
22 expenditure was made.

23 (4) If the contribution or expenditure was made for or against
24 a candidate, the office sought by the candidate and the political
25 party affiliation of the candidate.

26 (5) If the contribution or expenditure was made for or against
27 a ballot measure, the purpose of the measure and whether the
28 contribution or expenditure was made in support or opposition to
29 the ballot measure.

30 (b) Within 90 days of the close of the fiscal year, the
31 corporation shall inform each shareholder in writing of the right
32 of that shareholder to object to the use of corporate funds
33 equaling the proportional share of the value of his or her equity
34 in the corporation for political activities. The corporation shall
35 also inform each shareholder in writing regarding the appropriate
36 procedure for registering that objection.

37 (c) The corporation shall give every shareholder no less than
38 60 days following receipt of the notice specified in subdivision
39 (b) to file a notice that he or she is an objecting shareholder. Each
40 shareholder who fails to object within the timeframe afforded by

1 the corporation under subdivision (b) shall be deemed to have
2 approved the contribution or expenditure equaling the
3 proportional share of the value of his or her equity in the
4 corporation for political activities.

5 (d) Upon receipt of an objection made pursuant to subdivision
6 (c), the corporation shall calculate the objecting shareholder's pro
7 rata share of the contributions or expenditures made to support
8 political activities in the previous fiscal year and shall, at the
9 election of the corporation, either return to the shareholder that
10 amount in the form of a dividend or shall make a contribution in
11 that amount to a bona fide charity. The calculation of the
12 shareholder's pro rata share shall be determined by dividing the
13 amount of the contributions or expenditures made, by the amount
14 of outstanding shares, multiplied by the number of shares held by
15 the shareholder.

16 85352. No provision of Section 85351 shall relieve any
17 corporation of its obligations under Section 604 of the California
18 Corporations Code (or any successor statute, rule or regulation
19 that may exist from time to time) or any statute, rule or regulation
20 from any other jurisdiction that regulates the solicitation of
21 proxies, and any corporation with an outstanding class of
22 securities registered under Section 12 of the Securities Exchange
23 Act of 1934, as amended, of its obligations to comply with the
24 proxy rules promulgated under the Securities Exchange Act of
25 1934, as amended.

26 85353. For a contribution or expenditure for political
27 activities to be made or caused to be made by a corporation
28 "indirectly," as provided in Section 85351, the corporation must
29 know or have reason to know its funds will be used to make
30 contributions or expenditures for political activities.

31 85354. Any corporation that makes a political contribution or
32 expenditure for political activities shall maintain records that
33 include copies of each report compiled under subdivision (a) of
34 Section 85351 for 5 years, and a copy of each report shall be sent
35 to the Fair Political Practices Commission upon request.

36 85355. A violation of this article is punishable as a
37 misdemeanor. In addition to other penalties provided by law, a
38 fine of up to the greater of ten thousand dollars (\$10,000) or three
39 times the amount unlawfully contributed, expended, or given
40 shall be imposed upon conviction of each violation.

1 85356. The commission shall enforce this section and may
2 levy a civil penalty equal to the fine established pursuant to
3 Section 85355.

4 SEC. 3. The provisions of this act are severable and if any
5 provision of this act, or the application thereof to any person or
6 circumstances, is held invalid such invalidity shall not affect any
7 other provision or application of this act which can be given
8 effect without the invalid provision or application.

9 SEC. 4. The Secretary of State shall, pursuant to subdivision
10 (b) of Section 81012 of the Government Code, submit Sections 1
11 and 2 of this act for approval by the voters at the June 3, 2008,
12 statewide primary election, notwithstanding Section 9040 of the
13 Elections Code.